IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4192 OF 2006

Rajendra Trading Co. ....Petitioner
V/s.
Tasgaon Taluka Sahakari Kharedi Vikri Sangh Ltd,Tasgaon & Anr. ....Respondents

Mr.Umesh Mankapure for the Petitioner.
Mr.T.S. Ingale for Respondent No.2.

CORAM : R.M. SAVANT, J.
DATED : 12TH JUNE, 2007.

P.C. :

1. This Petition takes exception to the order dated 6.6.2006 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. By the said order, the Petitioner's Revision Application has been dismissed and the order passed by Respondent No.1 - Liquidator dated 25.7.1996 has been confirmed. The Petitioner is occupying part of plot No.230 of Vasant Market Yard which was owned by Respondent No.1 - Kharedi Vikri Sangh.

2. On account of appointment of the Liquidator on Respondent No.1 - Sangh, the proceedings for liquidation of the assets of the said Sangh were commenced and the Liquidator passed an order on

25.7.1996, pursuant to which an auction sale was held. Since the Petitioner herein refused to hand over possession of the premises in question, the Liquidator approached the Civil Court for execution of the said certificate dated 30.7.1996.

3. The Civil Court vide its order dated 16.11.2005 directed the possession warrant to be issued and the possession to be handed over to the auction purchaser on behalf of the decreeholder.

4. This order came to be challenged by the Petitioner by filing the Writ Petition No.8768 of 2005 which came to be disposed of as the Petitioner decided to prefer an Appeal against the order dated 25.7.1996 passed by the Liquidator under Section 105 of the Maharashtra Co-operative Societies Act, 1960. In the said order, it has been also recorded that it will be open to the Petitioner to file appropriate proceedings to claim any tenancy right, if so permissible in law.

5. The Revision Application filed by the Petitioner pursuant to the liberty granted by this Court came to be rejected by the order which is impugned in the present Petition. Whilst confirming the order dated 25.7.1996, The Appellate Authority has

held that the Liquidator after following the procedure has taken steps to auction the property in question. The Appellate Authority has also held that the possession of the Petitioner is without any authority in that behalf as the agreement under which the Petitioner came to occupy the premises has long expired, in so far as the jurisdiction of the Liquidator is concerned the Court came to a finding that since the Government stood to recover the arrears in respect of the advances made by it from the Taluka Sangh, it was necessary to recover the arrears of the Government first done the sale proceeds and therefore the proceedings initiated by the Liquidator cannot be faulted with. I do not see any illegality or infirmity in the order passed by the Appellate Authority and therefore no case for interference under Article 227 of the Constitution of India is made out.

6. It was sought to be argued on behalf by the learned counsel for the Petitioner that the Petitioner is a tenant of Respondent No.1 and cannot be ousted in the manner it has been done by the Liquidator by invoking the provisions under Section 105 of the said Act. It is pertinent that the Petitioner has not filed any proceedings under the Rent Act for declaration that it is a tenant etc. Therefore in my

view the said contention of the Petitioner is bereft of any merit.

. However, since the Petitioner claims to have tenancy rights in respect of the premises in question, the Petitioner would be at liberty to adopt such proceedings as are permissible in law for asserting its rights and the disposal of the above Petition would not come in its way.

7. In the light of above, the Petition is dismissed.

8. The stay of possession is granted for a period of two weeks from date.

(R.M. SAVANT, J.)